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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3374

AN ORDINANCE adopting a Storm and Surface Water Utility Code; and adding a new Chapter 24.06 to the Bellevue City Code.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. A new chapter 24.06 is hereby added to the Bellevue City Code, to read as follows:

24.06.010 Title.

This chapter shall be known as the Storm and Surface Water Utility Code. It shall be referred to herein as the "Code."

24.06.020 Purpose.

It is the purpose of this Code to:

1. Provide for the regulation and management of the storm and surface water system in the Utility service area, both public and private, including the construction of new storm and surface water facilities, in order to decrease flood damage to public and private property, conserve historical drainage patterns, protect and preserve open water features, and encourage the development of land in a manner that preserves the water quality of the system, protects wildlife and aquatic habitats, fosters other beneficial uses of the system, and promotes the health, safety and welfare of the citizens of the service area.
2. Establish the authority of the Utility regarding the acquisition, design, construction, maintenance, management and operation of the Utility system.

24.06.030 Territorial Application.

This Code and regulations adopted hereunder shall be in effect throughout the Utility service area.

24.06.040 Construction - Intent.

This Code is enacted as an exercise of the police power of the City of Bellevue to protect and preserve the public health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

It is expressly the purpose of this Code and any regulations and procedures adopted hereunder to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Code or any regulations or procedures adopted hereunder.

It is the specific intent of this Code and any regulations and procedures adopted hereunder to place the obligation of complying with its requirements upon the property owner and no provision hereof is intended to impose any duty upon the City of Bellevue, the Utility or any of their officers, employees or agents. Nothing contained in this Code or any regulations and procedures adopted hereunder is intended to be or shall be construed to create or form a basis for liability on the part of the City of Bellevue, the Utility, its officers, employees or agents, for any injury or damage resulting from the failure of the property owner to comply with the provisions hereof, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this Code or any regulation or procedure adopted hereunder by the City of Bellevue, the Utility, its officers, employees or agents.

24.06.050 Definitions.

The following words and phrases when used in this chapter shall mean:

Utility - The Storm and Surface Water Utility of the City of Bellevue created by Ordinance No. 2003, as now or hereafter amended, and administered by the City Manager or his/her designated representative.

Director - The Director of the Storm and Surface Water Utility, appointed by the City Manager, or the Director's designated representative.

Comprehensive Drainage Plan - The Comprehensive Storm and Surface Water Drainage Master Plan adopted by Ordinance No. 2798, as now or hereafter amended.

Regulation - Any regulation, rule or requirement prepared by the Utility and adopted by the City Council pursuant to the requirements of this Code.

Procedure - A procedure adopted by the Utility, by and

through the Director, to implement a regulation or regulations adopted under this Code, or to carry out other responsibilities as may be required by this Code or other codes, ordinances or resolutions of the City or other agencies.

Storm and Surface Water System - the entire system within the City, both public and private, naturally existing and artificial, for the drainage, conveyance, detention and storage of storm and surface waters.

Storm and Surface Water Utility System, or "Utility system" - those elements of the storm and surface water system of the city 1) located on property owned by the Utility or 2) located on property on which the Utility has an easement or other right of use for Utility purposes.

Private System - Any element of the storm and surface water system which is not a part of the Utility system as defined herein.

Unsafe Condition - Any condition on any premises which is a hazard to health, safety and welfare or does or may impair or impede the operation or functioning of any portion of the Utility system, or which may cause damage thereto.

Utility Service Area - That area delineated on that certain "service area map" on file with the City Clerk under Clerk's receiving No. 9167, as the same may be hereafter amended.

24.06.060 Powers of the Utility.

The Utility, under the direction of its Director, shall have the power to:

1. Prepare regulations as needed to implement this Code, and forward the same to the City Council for consideration and adoption, and adopt such procedures as are required to implement said regulations or to carry out other responsibilities of the Utility.
2. Administer the acquisition, design, construction, maintenance and operation of the Utility system, including capital improvements designated in the Comprehensive Drainage Plan.
3. Administer and enforce this Code and all regulations and procedures adopted hereunder relating to the

design, construction, maintenance, operation and alteration of the storm and surface water system including, but not limited to, the quantity, quality and/or velocity of the storm and surface water conveyed thereby.

4. Inspect private systems as necessary to determine the compliance of such systems with this Code and any regulations adopted hereunder.
5. Advise the City Council, City Manager and other City departments on matters relating to the Utility.
6. Prepare and revise a Comprehensive Drainage Plan for adoption by the City Council at least every five years.
7. Review plans, approve or deny, inspect and accept extensions to the system.
8. Administer the Clearing and Grading Code, Bellevue City Code Chapter 23.76, and the Flood Plain Management Code, Bellevue City Code Chapter 23.72.
9. Establish and enforce regulations to protect and maintain water quality within the storm and surface water system in compliance with water quality standards established by state and/or federal agencies as now adopted or hereafter amended.
10. Analyze the cost of services and benefits provided, and the system and structure of fees, charges, fines and other revenues of the Utility at least every five years to ensure an equitable, adequate and stable Utility rate and fee structure and to achieve a stable financial position for the Utility.
11. Provide staff support to the Storm and Surface Water Advisory Commission.
12. Carry out such other responsibilities as required by this Code or other City codes, ordinances, regulations and the Bellevue Comprehensive Plan.

24.06.070 Comprehensive Drainage Plan.

A comprehensive drainage plan for the Utility shall be adopted by the City Council and shall be updated by the Council at least every five years.

24.06.110 Connections, Extensions, Modifications, and Alterations to the Storm and Surface Water System - Utility Review and Approval.

Applications for use, connection, extension, modification or alteration to the storm and surface water system shall be reviewed by the Utility to determine compliance with this Code and the regulations and procedures adopted hereunder. No permit shall be issued or approval given until the Utility has determined that such application complies with this Code and the regulations and procedures adopted hereunder.

24.06.120 System Extension Agreements.

The Utility, by and through its Director, is authorized to enter into agreements with private property owners for the construction of facilities which, upon completion and acceptance in writing by the Utility, shall become part of the Utility system.

24.06.130 Latecomer Agreements.

The Utility shall have full authority, through its Director, to enter into any contract authorized under RCW Chapter 35.91, the Municipal Water and Sewer Facilities Act, including contracts which provide for the reimbursement of owners constructing facilities, commonly known as latecomer agreements.

24.06.140 Alternative Methods and Materials.

The provisions of this Code and regulations and procedures adopted hereunder are not intended to prevent the use of any material or method of construction not specifically prescribed therein, provided such alternate must be approved by the Director as substantially equal to the material or method provided by the Code, regulations, or procedures.

24.06.150 Easements, Deeds of Dedication, and Other Transfers of Rights.

The Utility is authorized to acquire or accept by gift and to convey any property, easement or other right of use under such terms and conditions as are determined by the Utility to be in the public interest. Approval of the City Council shall be required for the acquisition, acceptance or conveyance of property, easement or other right of use of a value exceeding \$10,000.

24.06.160 Consent to Inspection.

As a condition of issuance of any permit or authorization which requires approval of the Utility, each applicant shall be required to consent, in writing, to reasonable periodic inspection by the Utility or other appropriate City agency. If the applicant refuses to consent to inspection, or prevents any such inspection from taking place, or causes or allows the prevention of any inspection, the Director may forthwith order a stop work on the system, facility or project covered by the permit or authorization.

24.06.170 Inspections - Right-of-Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this code or any regulation adopted hereunder, or whenever the Utility has reasonable cause to believe that there exists in any private system or on any premises, any condition which is unsafe as defined in this Code, or to investigate a suspected water quality violation, the Utility may enter onto such premises at all reasonable times to inspect the same or perform any duties imposed upon the Utility by this Code; provided the Utility shall first make reasonable efforts to contact the owner or person responsible for such premises and shall present proper credentials to such person or persons and demand entry onto the premises. If entry is refused, the Director shall have recourse to every remedy provided by law to secure entry.

24.06.180 Correction and Discontinuance of Unsafe, Nonconforming or Unauthorized Conditions.

The Director may order the correction of any condition on any premises which:

1. Is in violation of, or is being used contrary, to any provision of this Code or regulation adopted hereunder.
2. Is unsafe as defined in Section 24.06.050 of this code.

The Director may also order any activity causing such condition to be discontinued.

24.06.185 Procedures to Obtain Correction or Discontinuance of Unsafe or Nonconforming Conditions.

Whenever the Director determines to order the correction or discontinuance of any condition on any premises in accordance

with 24.06.180, the Director shall cause the owner or other person responsible for such condition to be notified of the existence of such condition and shall direct the owner or other such responsible person to correct or discontinue the condition, as the case may be, within ten days, or such other reasonable period as the Director determines, following the giving of such notice.

The Utility shall have all powers and remedies which may be available under law, this Code, and regulations adopted hereunder for securing the correction or discontinuance of any condition specified in Section 24.06.180.

24.06.190 Stop Work Orders.

Whenever any work is being done contrary to the provisions of this code or any regulation adopted hereunder, the Director may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such person shall forthwith stop such work until authorized by the Director to proceed with the work.

24.06.195 Periodic Service Charges.

The City Council shall establish by ordinance, Utility service charges for the services provided by the Utility, and shall establish classifications of customers and service in accordance with RCW 35.67, RCW 35.92 and other applicable law.

24.06.200 System Extension Charges.

System extension charges, to be established by ordinance, shall be levied against property at the time such property is changed from an undeveloped to developed condition. Such charges shall be in such amounts as to provide that each property bears its equitable share of the cost of the Utility system.

24.06.210 Permits, Fees and Service Charges.

The City Council may establish by ordinance or regulation fees and charges to be charged as a condition of issuance of any permit or authorization requiring approval of the Utility or in responding to a request for services to be provided by the Utility. Periodic adjustments to specific fees and charges established pursuant to this section may be adopted by the City Council or by the Director acting on behalf of

the City Council as specified in regulations adopted hereunder.

24.06.220 Billing and Collection.

The Utility, jointly with the Finance Department, may establish procedures pertaining to the billing and collection of service charges and other fees imposed by the Utility.

24.06.230 Maintenance and Operation of Private Utility Systems.

The responsibility of the Utility shall be limited to maintenance and operation of the Utility system, and the Utility assumes no responsibility for maintenance and operation of private systems. All private systems shall be maintained by the owner or operator thereof in a safe and proper operating condition, and in compliance with all applicable requirements of this Code and regulations and procedures adopted hereunder.

24.06.260 Interlocal Agreements.

The Utility, with the approval of the City Council, is authorized to enter into agreements with other local, state or federal jurisdictions in order to carry out the purposes of this Code or regulations adopted hereunder.

24.06.270 Adoption of Regulations and Procedures.

The Utility shall prepare and forward to the Council, with its recommendation, such proposed regulations as it determines to be necessary to implement and enforce the provisions of this code. The Council shall adopt, by ordinance, such regulations, and with such modifications, if any, as it determines appropriate.

The Utility may adopt procedures for the purpose of implementing regulations under this code. Such procedures shall not require approval by the Council.

All regulations and procedures adopted pursuant to this section shall conform with the requirements or rules and regulations of local, state and federal agencies having jurisdiction within the Utility service area over the operation and development of the Utility system.

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24.06.280 Liability.

The Director and any other employee charged with the enforcement of this code, acting for the Utility in good faith and without malice in the discharge of his/her duties shall not thereby render himself/herself liable personally for any damages which may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of such duties.

24.06.290 Violations.

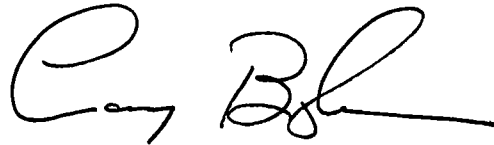
Any person violating any provision of this code or any regulation adopted hereunder is guilty of a misdemeanor.

Section 2. Severability. If any one or more section, subsections or sentences of this ordinance are held unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this code and the same shall remain in full force and effect.

Section 3. This ordinance shall take effect and be in force thirty days after final passage by the City Council.

PASSED by the City Council this 21st day of May, 1984, and signed in authentication of its passage this 21st day of May, 1984.

(SEAL)



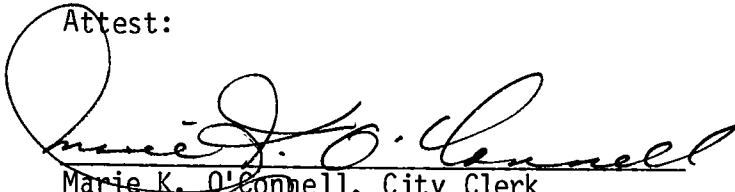
Cary E. Bozeman, Mayor

Approved as to form:

Richard L. Andrews, Acting City Attorney


Richard L. Andrews, Acting City Attorney

Attest:


Marie K. O'Connell, City Clerk

Published May 26, 1984